

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

LEGACY BROKERAGE, LLC
Plaintiff,

V.

NEWREZ MORTGAGE, LLC,
Defendant,

Civil Action No. 4:22-cv-496

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES JUDGE:

Pursuant to 28 U.S.C. §§1441 and 1446(a), Defendant NewRez Mortgage, LLC (hereinafter “Defendant” or “NewRez”) gives notice and hereby removes this action from the 471st District Court of Collin County, Texas, to the United States District Court for the Eastern District of Texas, Sherman Division, and in support thereof would show unto the Court the following:

A. Introduction

1. On or about March 9, 2022, Plaintiff Legacy Brokerage, LLC (hereinafter “Plaintiff”) filed *Plaintiff’s Original Petition* (hereinafter “Petition”) in the 471st District Court of Collin County, Texas, styled *Legacy Brokerage, LLC vs. NewRez Mortgage, LLC*, bearing Cause Number 471-01195-2022 (hereinafter the “State Court Action”).

2. The Plaintiff's lawsuit concerns ownership of certain real property commonly known as 7812 Whippoorwill Drive, McKinney, Texas more particularly described as:

**LOT 13, BLOCK B OF EAGLE CREEK, AN ADDITION TO
THE CITY OF MCKINNEY, ACCORDING TO THE PLAT
THEREOF RECORDED IN VOLUME I, PAGE 473, MAP
RECORDS OF COLLIN COUNTY, TEXAS.**

(hereinafter the “Property”). (See Petition at ¶ VII, 1.) In the petition, Plaintiff seeks to quiet title to and establish ownership of said property. (See Petition at ¶¶ VIII, 2-6.)

3. NewRez was served and first received notice of the lawsuit on May 16, 2022. Therefore, Defendant timely files this notice of removal within the 30-day time period dictated by 28 U.S.C. §1446(b).

B. Procedural Requirements

4. Venue is proper in the United States District Court for the Eastern District of Texas, Sherman Division, because the State Court Action is pending within this district and division. See 28 U.S.C. §1441(a); *Also see* 28 USC §124(c)(3).

5. Pursuant to 28 U.S.C. §1446(a), attached hereto as **Exhibit A** and incorporated by reference is a true and correct copy of the docket sheet and entire file of record with the Court in the 471st Judicial District Court of Collin County, Texas, including all process, pleadings, and orders served.

6. Simultaneously with the filing of this *Notice of Removal*, Defendant is filing notice of the removal in the 471st District Court of Collin County, Texas pursuant to 28 U.S.C. §1446(a), which is attached hereto as **Exhibit B**, and will provide written notice of the filing of this *Notice of Removal* to all parties as required by 28 U.S.C. §1446(a). Also, in accordance with Local Rule CV-81(c)(2), Defendant has filed contemporaneously with this Notice a civil cover sheet, a copy of which is attached hereto as **Exhibit C**. Also, in accordance with Local Rule CV-81(c)(2), Defendant has filed contemporaneously with this Notice, and index of matters being filed, and a list of all counsel of record, including addresses, telephone numbers and parties represented, a copy of which is attached hereto as **Exhibit D**. Also, In accordance with Local Rules CV-81 (c)(1) and CV-

81(c)(4), Defendant affirmatively states that the current status of the removed case is pending and that no parties to the removed this action have requested jury trial.

7. Defendant is filing its *Disclosure Statement and Certificate of Interested Parties* pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, a copy of which is attached hereto as **Exhibit E**.

C. Basis for Removal

8. Removal in this case is proper because this Court has diversity jurisdiction under 28 U.S.C. §§1332(a). Where there is complete diversity among parties and the amount in controversy exceeds \$75,000.00, an action may be removed to federal court.

I. Diversity of Citizenship

9. Based on Plaintiff's Petition, Plaintiff is a citizen of Texas. (*See* Petition at ¶ III.)

10. Defendant NewRez is a limited liability company. The citizenship of a limited liability company is determined by its members. *Carden v. Arkoma Assocs.* 494 U.S. 185, 197 (1990). NewRez, LLC has one member: Shellpoint Partners LLC, a Delaware limited liability company. Shellpoint Partners LLC has two members: NRM Acquisition LLC and NRM Acquisition II LLC, both of which are Delaware limited liability companies. NRM Acquisition LLC and NRM Acquisition II LLC each have one member: New Residential Mortgage LLC, a Delaware limited liability company. New Residential Mortgage LLC has one member: New Residential Investment Corporation, a Delaware corporation. Therefore, NewRez is a citizen of Delaware.

11. Plaintiff is a resident of Texas. Defendant is a citizen of Delaware. Since all necessary parties are diverse, there is complete diversity between the relevant parties.

II. Amount in Controversy

12. The Petition seeks to determine proper legal ownership of the Property. "In actions

seeking declaratory relief or injunction relief the amount in controversy is measured by the value of the object of the litigation.” *Leininger v. Leininger*, 705 F.2d 727, 729 (5th Cir. 1983). Put another way, “[t]he amount in controversy, in an action for declaratory or injunctive relief, is the value of the right to be protected or the extent of the injury to be prevented.” *St. Paul Reinsurance Co., Ltd. V. Greenberg*, 134 F.3d 1250, 1252-1253 (5th Cir. 1998). “It is well established in actions in which declaratory or injunctive relief is sought, the amount in controversy for jurisdictional purposes is measured by the direct pecuniary value of the right which the plaintiff seeks to enforce or protect or the value of the object which is the subject matter of the suit.” *Martinez v. BAC Home Loans Servicing, LP*, 777 F.Supp.2d 1039, 1044 (W.D.Tex.2010); *see also Hartford Ins. Group v. Lou-Con Inc.*, 293 F.3d 908, 910 (5th Cir.2002) (“The amount in controversy is ‘the value of the right to be protected or the extent of the injury to be prevented.’”) (quoting *Leininger*, 705 F.2d 727, 729 (5th Cir.1983)). The Fifth Circuit has held that when the right to the property is at issue, the value of the property controls the amount in controversy. *Waller v. Prof'l Ins. Corp.*, 296 F.2d 545, 547–48 (5th Cir.1961); *see also Nationstar Mortg. LLC v. Knox*, 351 Fed. Appx. 844, 848 (5th Cir.2009) (*Waller* extended to a suit seeking injunctive relief to prevent foreclosure).

13. Pursuant to the records of the Collin County Appraisal District (<https://collincad.org>) online, the Property is valued at \$501,727.00. A true and correct copy of the Collin Appraisal District property search results is attached hereto as **Exhibit F** and is incorporated herein. Therefore, the amount in controversy exceeds \$75,000.00 in compliance with 28 U.S.C. §§1332(a).

D. Prayer

WHEREFORE, Defendant removes this action from the 471st District Court of Collin County, Texas, to the United States District Court for the Eastern District of Texas, Sherman

Division, so that this Court may assume jurisdiction over the cause as provided by law.

Respectfully submitted,

**BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP**

/s/ R. Matthew Graham
R. Matthew Graham – *Attorney in Charge*
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CERTIFICATE OF SERVICE

I certify that a copy of *Notice of Removal* has been served on all parties electronically via CM/ECF and / or by U.S. Certified Mail, return receipt delivery, the parties below on June 14, 2022.

VIA E-Service: ken@kenharter.com

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Attorney for Plaintiff

/s/ R. Matthew Graham
R. Matthew Graham

INDEX OF DOCUMENTS ATTACHED

- A. Docket sheet from Case No. 471-01165-2022 and Plaintiff's Original Petition filed March 9, 2022, all pleadings and executed processes in the case, if any, all answers, if any, all orders, if any;
- B. Notice of Filing of Notice of Removal to Federal Court filed in the 471st District Court of Collin County, Texas;
- C. Civil Cover Sheet;
- D. List of All Counsel of Record;
- E. Disclosure Statement and Certificate of Interested Parties; and
- F. Printout from Collin County Central Appraisal District.